

**House File 2394 - Reprinted**

HOUSE FILE 2394  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 537)

(As Amended and Passed by the House March 9, 2016)

**A BILL FOR**

1 An Act relating to various matters involving insurance and  
2 the insurance division of the department of commerce, and  
3 including penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 16.91, subsection 3, Code 2016, is  
2 amended to read as follows:

3 3. With the approval of the authority board the division  
4 and its board shall consult with the insurance division of  
5 the department of commerce in developing a guaranty contract  
6 acceptable to the secondary market and developing any other  
7 feature of the program with which the insurance division may  
8 have special expertise. ~~The insurance division shall establish~~  
9 ~~the amount for a loss reserve fund.~~ Except as provided in this  
10 subsection, the Iowa title guaranty program is not subject to  
11 the jurisdiction of or regulation by the insurance division or  
12 the commissioner of insurance.

13 Sec. 2. Section 502.305, subsection 2, Code 2016, is amended  
14 to read as follows:

15 2. *Filing.* Except as provided in ~~subsection 10~~ section  
16 502.302, subsection 3, and section 502.304A, subsection 3,  
17 paragraph "g", a person who files a registration statement  
18 or a notice filing shall pay a filing fee of ~~one-tenth of~~  
19 ~~one percent of the proposed aggregate sales price of the~~  
20 ~~securities to be offered to persons in this state pursuant to~~  
21 ~~the registration statement or notice filing. However, except~~  
22 ~~as provided in subsection 10, section 502.302, subsection 1,~~  
23 ~~paragraph "a", and section 502.304A, subsection 3,~~ paragraph  
24 "g", the annual filing fee shall not be less than fifty dollars  
25 or more than one thousand dollars as prescribed by rules  
26 adopted pursuant to chapter 17A. The administrator shall  
27 retain the filing fee even if the notice filing is withdrawn or  
28 the registration is withdrawn, denied, suspended, revoked, or  
29 abandoned. The fees collected under this subsection shall be  
30 deposited as provided in section 505.7. The administrator may  
31 adopt rules requiring a filing to be made electronically. The  
32 rules may provide for such electronic filing either directly  
33 with the administrator or with a designee of the administrator.  
34 The rules may require that the filer pay any reasonable costs  
35 charged by the designee of the administrator for processing the

1 filings and that the filer submit any fees paid through the  
2 designee.

3 Sec. 3. Section 502.305, subsection 10, Code 2016, is  
4 amended by striking the subsection.

5 Sec. 4. Section 502.306, subsection 1, paragraph a, Code  
6 2016, is amended to read as follows:

7 a. The registration statement as of its effective date  
8 or before the effective date in the case of an order denying  
9 effectiveness, ~~an amendment under section 502.305, subsection~~  
10 ~~10, as of its effective date,~~ or a report under section  
11 502.305, subsection 9, is incomplete in a material respect or  
12 contains a statement that, in the light of the circumstances  
13 under which it was made, was false or misleading with respect  
14 to a material fact.

15 Sec. 5. NEW SECTION. 507E.3A **Fraudulent sales practices —**  
16 **penalty.**

17 1. A person commits a class "D" felony if the person, with  
18 the intent to defraud another person in connection with any  
19 sale, solicitation, or negotiation of insurance in this state,  
20 willfully does any of the following:

21 a. Employs any deception, device, scheme, or artifice to  
22 defraud.

23 b. Misrepresents, conceals, or suppresses any material fact.

24 c. Engages in any act, practice, or course of business which  
25 operates as a fraud or deceit upon any person.

26 2. Notwithstanding subsection 1, a person commits a class  
27 "C" felony if the person violates subsection 1, and such  
28 violation results in a loss of more than ten thousand dollars.

29 Sec. 6. Section 521A.1, Code 2016, is amended by adding the  
30 following new subsections:

31 NEW SUBSECTION. 5A. "*Group-wide supervisor*" means a  
32 regulatory official who is authorized, and who is determined  
33 or acknowledged by the commissioner pursuant to section  
34 521A.6B to have sufficient significant contacts with an  
35 internationally active insurance group, to engage in conducting

1 and coordinating group-wide supervision of the internationally  
2 active insurance group.

3 NEW SUBSECTION. 7A. *"Internationally active insurance group"*  
4 means an insurance holding company system that includes an  
5 insurer registered under section 521A.4 and that meets all of  
6 the following criteria:

7 a. The insurance holding company system has premiums written  
8 in at least three countries.

9 b. The percentage of gross premiums written outside the  
10 United States is at least ten percent of the insurance holding  
11 company system's total gross written premiums.

12 c. Based on a three-year rolling average, the total assets  
13 of the insurance holding company system are at least fifty  
14 billion dollars or the total gross written premiums of the  
15 insurance holding company system are at least ten billion  
16 dollars.

17 Sec. 7. Section 521A.6A, subsection 1, unnumbered paragraph  
18 1, Code 2016, is amended to read as follows:

19 With respect to any insurer registered under section  
20 521A.4 and in accordance with ~~subsection 3~~ of this section,  
21 the commissioner shall have the power to participate in a  
22 supervisory college for any domestic insurer that is part  
23 of an insurance holding company system with international  
24 operations in order to determine compliance by the insurer with  
25 this chapter. The powers of the commissioner with respect  
26 to supervisory colleges include but are not limited to the  
27 following:

28 Sec. 8. Section 521A.6A, subsections 2 and 3, Code 2016, are  
29 amended by striking the subsections.

30 Sec. 9. NEW SECTION. 521A.6B **Group-wide supervision of**  
31 **internationally active insurance groups.**

32 1. a. The commissioner may act as the group-wide supervisor  
33 of an internationally active insurance group in accordance with  
34 the provisions of this section. However, the commissioner may  
35 authorize another regulatory official to act as the group-wide

1 supervisor where the internationally active insurance group  
2 meets any of the following conditions:

3 (1) Does not have substantial insurance operations in the  
4 United States.

5 (2) Has substantial insurance operations in the United  
6 States, but not in Iowa.

7 (3) Has substantial insurance operations in the United  
8 States and in Iowa, but the commissioner has determined  
9 pursuant to the factors set forth in subsections 2 and 6 that  
10 another regulatory official is the appropriate group-wide  
11 supervisor.

12 *b.* In response to a request from an insurance holding  
13 company system that does not otherwise qualify as an  
14 internationally active insurance group, the commissioner may  
15 make a determination of or acknowledge a group-wide supervisor  
16 for such an insurance holding company system pursuant to this  
17 section.

18 2. *a.* In cooperation with other state, federal, and  
19 international regulatory agencies, the commissioner shall  
20 identify a single group-wide supervisor for an internationally  
21 active insurance group. The commissioner may determine that  
22 the commissioner is the appropriate group-wide supervisor  
23 for an internationally active insurance group that conducts  
24 substantial insurance operations concentrated in this state,  
25 or the commissioner may acknowledge that a regulatory official  
26 from another jurisdiction is the appropriate group-wide  
27 supervisor for the internationally active insurance group. In  
28 making a determination or acknowledgment under this paragraph  
29 "*a*", the commissioner shall consider the following factors:

30 (1) The place of domicile of the insurers within the  
31 internationally active insurance group that hold the largest  
32 share of the group's written premiums, assets, or liabilities.

33 (2) The place of domicile of the top-tiered insurers in the  
34 insurance holding company system of the internationally active  
35 insurance group.

1 (3) The location of the executive offices or largest  
2 operational offices of the internationally active insurance  
3 group.

4 (4) Whether another regulatory official is acting as  
5 or is seeking to act as the group-wide supervisor of the  
6 internationally active insurance group under a regulatory  
7 system that the commissioner determines to be either of the  
8 following:

9 (a) Substantially similar to the system of regulation  
10 provided under the laws of this state.

11 (b) Otherwise sufficient in terms of providing for  
12 group-wide supervision, enterprise risk analysis, and  
13 cooperation with other regulatory officials.

14 (5) Whether another regulatory official acting as  
15 or seeking to act as the group-wide supervisor for the  
16 internationally active insurance group provides the  
17 commissioner with reasonably reciprocal recognition and  
18 cooperation.

19 *b.* Notwithstanding paragraph "a", even if the commissioner  
20 is identified pursuant to this subsection as the group-wide  
21 supervisor of an internationally active insurance group,  
22 the commissioner may determine that it is appropriate to  
23 acknowledge another regulatory official to serve as the  
24 group-wide supervisor of the internationally active insurance  
25 group.

26 *c.* The acknowledgment of a group-wide supervisor pursuant  
27 to this subsection shall be made after consideration of the  
28 factors listed in paragraph "a", subparagraphs (1) through  
29 (5), and shall be made in cooperation with and subject to the  
30 acknowledgment of other regulatory officials involved with  
31 supervision of members of the internationally active insurance  
32 group, and in consultation with the internationally active  
33 insurance group.

34 3. Notwithstanding any other provision of law, when another  
35 regulatory official is acting as the group-wide supervisor of

1 an internationally active insurance group, the commissioner  
2 shall acknowledge that regulatory official as the group-wide  
3 supervisor of the internationally active insurance group.  
4 However, the commissioner shall make a new determination or  
5 acknowledgment as to the appropriate group-wide supervisor for  
6 the internationally active insurance group in the event that a  
7 material change in the internationally active insurance group  
8 results in either of the following:

9     *a.* The internationally active insurance group's insurers  
10 domiciled in Iowa holding the largest share of the group's  
11 premiums, assets, or liabilities.

12     *b.* Iowa being the place of domicile of the top-tiered  
13 insurers in the insurance holding company system of the  
14 internationally active insurance group.

15     4. Pursuant to section 521A.6, the commissioner is  
16 authorized to collect from any insurer registered pursuant to  
17 section 521A.4 all information necessary to determine whether  
18 it is appropriate for the commissioner to act as the group-wide  
19 supervisor of an internationally active insurance group or  
20 to acknowledge another regulatory official to act as the  
21 group-wide supervisor of the internationally active insurance  
22 group. Prior to issuing a determination or acknowledgment  
23 pursuant to this section, the commissioner shall notify the  
24 insurer registered pursuant to section 521A.4 and the ultimate  
25 controlling person within the internationally active insurance  
26 group of the pending determination or acknowledgment. The  
27 insurer and the internationally active insurance group shall  
28 have not less than thirty days to provide the commissioner with  
29 additional information pertinent to the commissioner's pending  
30 determination or acknowledgment. The commissioner shall  
31 publish the identity of the internationally active insurance  
32 groups that the commissioner has determined are subject to  
33 group-wide supervision by the commissioner.

34     5. If a determination is made that the commissioner is the  
35 appropriate group-wide supervisor for an internationally active

1 insurance group, the commissioner is authorized to engage in  
2 any of the following group-wide supervision activities:

3     *a.* Assessing the enterprise risks within the internationally  
4 active insurance group to ensure all of the following:

5         (1) That the material financial condition and liquidity  
6 risks to members of the internationally active insurance group  
7 that are engaged in the business of insurance are identified  
8 by management.

9         (2) That reasonable and effective mitigation measures are  
10 in place.

11     *b.* Requesting, from any member of an internationally active  
12 insurance group subject to the commissioner's group-wide  
13 supervision, information necessary and appropriate to assess  
14 enterprise risk, including but not limited to information about  
15 the members of the internationally active insurance group  
16 regarding all of the following:

17         (1) Governance, risk assessment, and management.

18         (2) Capital adequacy.

19         (3) Material intercompany transactions.

20     *c.* Coordinating and, through the authority of the  
21 regulatory officials of the jurisdictions where members of  
22 the internationally active insurance group are domiciled,  
23 compelling the development and implementation of reasonable  
24 measures designed to ensure that the internationally active  
25 insurance group is able to timely recognize and mitigate  
26 enterprise risks to members of the internationally active  
27 insurance group that are engaged in the business of insurance.

28     *d.* Communicating with other state, federal, and  
29 international regulatory agencies for members within the  
30 internationally active insurance group and sharing relevant  
31 information, subject to the confidentiality provisions of  
32 section 521A.7, through supervisory colleges as set forth in  
33 section 521A.6A or otherwise.

34     *e.* Entering into agreements with or obtaining documentation  
35 from any insurer registered under section 521A.4, any member

1 of an internationally active insurance group, and any other  
2 state, federal, or international regulatory agency for members  
3 of the internationally active insurance group, that provides  
4 the basis for or otherwise clarifies the commissioner's role as  
5 group-wide supervisor of an internationally active insurance  
6 group, including provisions for resolving disputes with other  
7 regulatory officials. Such agreements or documentation shall  
8 not serve as evidence in any proceeding that any insurer or  
9 person within an insurance company holding company system not  
10 domiciled or incorporated in this state is doing business in  
11 this state or is otherwise subject to jurisdiction in this  
12 state.

13 *f.* Other activities of group-wide supervision, consistent  
14 with the authority and purposes set forth in this section, as  
15 considered necessary by the commissioner.

16 6. If the commissioner acknowledges that another regulatory  
17 official from a jurisdiction that is not accredited by the  
18 national association of insurance commissioners is the  
19 group-wide supervisor of an internationally active insurance  
20 group, the commissioner may reasonably cooperate through a  
21 supervisory college or otherwise, with group-wide supervision  
22 undertaken by that regulatory official provided that all of the  
23 following occur:

24 *a.* The commissioner's cooperation is in compliance with the  
25 laws of this state.

26 *b.* The regulatory official acknowledged as the group-wide  
27 supervisor of the internationally active insurance group also  
28 recognizes and cooperates with the commissioner's activities  
29 as a group-wide supervisor for other internationally active  
30 insurance groups, where applicable. If such recognition and  
31 cooperation is not reasonably reciprocal, the commissioner may  
32 refuse recognition and cooperation to that regulatory official.

33 7. The commissioner is authorized to enter into agreements  
34 with or obtain documentation from any insurer registered under  
35 section 521A.4, any affiliate of the insurer, and any other

1 state, federal, or international regulatory agency for members  
2 of the internationally active insurance group, that provides  
3 the basis for or otherwise clarifies another regulatory  
4 official's role as group-wide supervisor of an internationally  
5 active insurance group.

6 8. An insurer registered under section 521A.4 that is  
7 subject to this section shall be liable for and shall pay the  
8 reasonable expenses of the commissioner's participation in  
9 the administration of this section, including the engagement  
10 of attorneys, actuaries, accountants, and other experts not  
11 otherwise a part of the commissioner's staff and all reasonable  
12 travel expenses. Any persons so retained shall be under the  
13 direction and control of the commissioner and shall act in a  
14 purely advisory capacity.

15 9. The commissioner shall adopt rules pursuant to chapter  
16 17A to administer this section.

17 Sec. 10. Section 521A.7, subsection 1, Code 2016, is amended  
18 to read as follows:

19 1. All information, documents, and copies thereof obtained  
20 by or disclosed to the commissioner or any other person in  
21 the course of an examination or investigation made pursuant  
22 to [section 521A.6](#) or [521A.6A](#), and all information reported  
23 or provided to the commissioner pursuant to [sections 521A.4](#)  
24 and, [521A.5](#), [521A.6A](#), and [521A.6B](#), shall be given confidential  
25 treatment and, shall not be subject to subpoena, shall not be  
26 subject to discovery or admissible in evidence in a private  
27 civil action, and shall not be made public by the commissioner  
28 or any other person, except to insurance departments of other  
29 states, without the prior written consent of the insurer to  
30 which it pertains unless the commissioner, after giving the  
31 insurer and its affiliates who would be affected thereby,  
32 notice and opportunity to be heard, determines that the  
33 interests of policyholders, shareholders, or the public will  
34 be served by the publication thereof, in which event the  
35 commissioner may publish all or any part thereof in such

1 manner as the commissioner may deem appropriate. However, the  
2 commissioner is authorized to use the information, documents,  
3 or copies obtained by, disclosed to, or reported or provided  
4 to the commissioner as described in this subsection, in the  
5 furtherance of any regulatory or legal action brought as a part  
6 of the commissioner's official duties.

7 Sec. 11. Section 523I.808, Code 2016, is amended to read as  
8 follows:

9 **523I.808 Examination fee.**

10 An examination fee shall be submitted with the cemetery's  
11 annual report in an amount equal to five dollars for each  
12 certificate of interment rights issued during the ~~fiscal year~~  
13 time period covered by the report. The cemetery may charge  
14 the examination fee directly to the purchaser of the interment  
15 rights.

16 Sec. 12. Section 523I.813, subsections 1 and 2, Code 2016,  
17 are amended to read as follows:

18 1. A perpetual care cemetery shall file an annual report at  
19 the end of each ~~fiscal year~~ reporting period of the cemetery.

20 2. The report shall be filed with the commissioner within  
21 four months following the end of the cemetery's ~~fiscal year~~  
22 reporting period in the form required by the commissioner.